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Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations: BARBADOS

1. The Committee considered the initial report of Barbados (CRC/C/3/Add.45) at its 534th to 536th meetings (see CRC/C/SR.534-536), held on 18 and 19 May 1999, and adopted* the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation for the clear and comprehensive nature of the report, which followed the Committee's guidelines. The Committee also takes note of the written answers to the list of issues (CRC/C/Q/BARBADOS.1) while regretting their late submission, and of the additional information provided to it during the course of the dialogue, which enabled it to assess the situation of the rights of the child in the State party. The Committee welcomes the constructive and open dialogue with the State's party delegation.

B. Positive aspects

3. The Committee welcomes the establishment in September 1998 of the National Committee for Monitoring the Rights of the Child, which will monitor the implementation of the Convention. It welcomes the mandate of the National Committee to carry out a thorough review of legislation, with a view to ensuring its conformity with the principles and provisions of the Convention.

4. The Committee also welcomes the opportunity for increased coordination that arises from the provision in the manifesto of the Government for a new Ministry of Social Transformation.

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* At the 557th meeting, held on 4 June 1999.

5. The Committee welcomes the adoption of policies regarding children with disabilities in the State party.

6. The Committee takes note of the forthcoming signing of the Penal Reform Act which has increased the age of criminal responsibility from 7 to 11 years.

C. Factors and difficulties impeding the implementation of the Convention

7. The Committee notes that recent international economic trends and policy decisions are of concern to all Caribbean States and create pressure on the State party to adopt economic restructuring policies which may have a negative impact on social and economic development. In adopting such restructuring policies, the State party faces the serious challenge of avoiding endangering the implementation of the Convention.

D. Principal subjects of concern and the Committee's recommendations

1. General measures of implementation

8. The Committee is concerned that the State party has not yet given adequate attention to the need to review existing legislation thoroughly to examine its conformity with the provisions of the Convention. The Committee notes that inconsistencies remain, especially with regard to the definition of the child, the acceptability of certain forms of physical abuse, and in the area of juvenile justice. **The Committee recommends that the National Committee for Monitoring the Rights of the Child proceed with its planned review of existing legislation and encourages the National Committee to consider carefully the principles as well as all provisions of the Convention, and in particular article 3. The Committee recommends that the State party give full support to the National Committee in this task and that it pay careful attention to the implementation of any recommendations for review of legislation that the National Committee may identify.**

9. The Committee takes note of proposed changes in administrative arrangements which should improve coordination and efforts to implement the Convention. The role that the Child Care Board plays in overall coordination of government activities dealing with children is not clear. **The Committee encourages the State party to give careful consideration to the need to provide adequate resources to, and define clearly the roles and responsibilities of the new Ministry of Social Transformation and its different units, the Child Care Board, and the National Committee for Monitoring the Rights of the Child, so as to ensure the most effective coordination and monitoring of the implementation of the Convention. The Committee also recommends that the State party ensure that a specific desk for children is set up within the existing ombudsman's office.**

10. The Committee takes note of the difficulties experienced in the State party in ensuring the collection of disaggregated data on all aspects of the implementation of the Convention and notes current plans to standardize and computerize data collection. **The Committee recommends that the State party increase its efforts, and if necessary request international technical assistance from, inter alia UNICEF, on the collection and analysis of**

statistical data on child rights, systematically disaggregated by gender, age, socio-economic background, geographic location, etc., and with an emphasis on vulnerable groups.

11. The Committee is concerned about the lack of data regarding the maximum allocation of available resources to implementation of child rights. The Committee notes that the budgetary provisions for social services affecting children and their rights, and in particular for poverty alleviation programmes and the Child Care Board, have increased steadily in recent years. **The Committee recommends that the State party give further attention to the need to disaggregate the relevant budgetary data, so as to make it possible to obtain a clearer picture of the allocation of budgetary resources.**

12. The Committee is concerned about the potential impact of economic restructuring measures, referred to in paragraph 7 above, on the implementation of the Convention. **The Committee suggests that the State party make every effort, including requesting international technical assistance, to avoid its economic restructuring policies having a real negative effect on the realization of the rights of the child.**

13. The Committee appreciates the detailed information regarding efforts to disseminate the Convention in the form of public awareness-raising campaigns, inclusion in the school curriculum, and collaboration with the media in this respect. However, the Committee is concerned that these efforts appear insufficient to achieve full acceptance of the principles and provisions of the Convention among professional groups and the general public. **The Committee recommends that the State party renew its efforts to undertake systematic education and training programmes on the provisions of the Convention for all professional groups working for and with children, such as judges, lawyers, law enforcement officials, civil servants, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers. In particular the Committee recommends that additional projects and programmes be dedicated to bringing about changes in traditional social attitudes that may be in conflict with full respect for the rights of the child, and encourages the State party to seek international assistance from, inter alia, UNICEF.**

2. Definition of the child

14. While the Minors Act sets the age of majority at 18 years of age, other legislation appears to set many limits on the levels of protection available for children over 16 years of age. The Protection of Children Act, 1990, offers protection from exploitation in pornography to all children under 18, but the Committee is concerned that the Sexual Offences Act, 1992, offers no special protection to children over the age of 16 and only limited protection to those between 14 and 16 years of age. Children over 16 years of age also appear to receive limited protection in legislation regulating the prevention of cruelty to children. **The Committee recommends that existing legislation be reviewed so as to increase the level of protection accorded to all children under 18 years of age.**

3. General principles

15. The Committee welcomes the general commitment of the State party to the prevention of discrimination. It takes note of the problems the State party faces in extending its provision of free education to all children beyond those who are citizens or permanent residents. **The Committee recommends that these provisions be reviewed so as to ensure implementation of the principle of non-discrimination for any child within the jurisdiction of the State party, as set forth in article 2 of the Convention.**

16. The Committee shares the concern in the State party over growing gender bias faced by boys as shown in, among other areas, academic underachievement by boys and difficulties in placing boys for adoption. At the same time the rate of girls who attempt or commit suicide is particularly high. In connection with the problems faced by both boys and girls, the Committee notes with satisfaction the recent decision to set up, within the Ministry of Social Transformation, a "Gender Affairs Bureau". **The Committee recommends that the State party continue and increase its efforts to address discrimination arising from the inappropriate socialization of boys and girls into inappropriate gender roles and the resulting determination of social attitudes concerning children based on gender.**

17. The Family Law Act sets the age of 16 as the point at which courts are obliged to take into account the views of a child. The Committee acknowledges the information it has received regarding the applicability of British common law which has in some cases been used by courts in the State party to consider the wishes of younger children according to the "maturity principle". Nevertheless, the Committee remains concerned that the implementation of article 12 of the Convention regarding the need to give due weight to the views of the child in accordance with his or her evolving capacity is excessively constrained by subjective interpretation under existing legislation. **The Committee recommends that the requested review of existing legislation consider the need for application of this principle, and in any case to children younger than 16, and in particular to make it a requirement for courts and other institutions to seek and give due weight to the views of the child in all matters affecting the child, in accordance with article 12 of the Convention.**

4. Civil rights and freedoms

18. The Committee is generally concerned that inadequate attention has been given to the promotion of civil rights and freedoms of the child, as provided for in articles 13, 14, 15, 16 and 17 of the Convention. Information before the Committee indicates that traditional social attitudes regarding the role of children appear to make it difficult to accept children fully as the subjects of rights. **The Committee urges the State party to redouble its efforts to educate and sensitize parliamentarians and government officials, professional groups, parents and children on the importance of accepting fully the concept of child rights, and recommends that legislative measures be envisaged to guarantee the enjoyment of civil rights and freedoms for every child.**

19. The Committee is concerned about legislation and policies that allow the use of flogging of children as a disciplinary measure in prisons and its use as a judicial sentence. In this respect, the Committee welcomes the commitment of the State party to give prompt consideration to the possibility of ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. **The Committee encourages the State party to conduct a public awareness-raising campaign and to review its legislation and policies in order to eliminate flogging as a judicial sentence and as a disciplinary measure in the prison system.**

5. Family environment and alternative care

20. The Committee shares the concern of the State party over the challenges faced by children as a result of changes in social and family structures which have led to high numbers of single-parent households and reduced support from extended families. The existing social security structures would make it difficult for the State party to ensure that both parents contribute to the maintenance of the child. The Committee notes that public assistance is available to assist children in these circumstances, but it remains concerned about the difficulty involved in ensuring respect for the provisions of article 18, paragraphs 1 and 2, and article 27, paragraph 4, of the Convention. **The Committee recommends that continuing attention be given to the risks of early parenthood and single parenthood, to the promotion of higher levels of involvement of fathers in the upbringing and development of the child, and to the need to provide necessary support to children in these cases.**

21. The Committee notes with appreciation recent efforts to improve arrangements for foster care, e.g. the doubling of the foster care allowance. It notes that the regular monitoring focuses more on the quality of placement of children in foster care than on the need to review the placement decision as such, in accordance with article 25 of the Convention. The Committee is concerned that the efforts to provide permanence and stability for children in care may on occasion lead to a premature decision that family reunification is no longer possible. **The Committee encourages the State party to continue its efforts to strengthen the foster care system in those instances where efforts to provide support to families prove insufficient. It also recommends that further research be conducted into the functioning of the existing system, taking full account of the provisions of articles 20 and 25 of the Convention.**

22. The Committee is seriously concerned about the high proportion of children who appear to be victims of physical abuse, in most instances accompanied by psychological and emotional abuse. The Committee is highly concerned about the subjective element involved in legislation that permits a "reasonable degree" of physical chastisement as a disciplinary method. The Committee is concerned that the tolerance of corporal punishment in schools will make it extremely difficult to educate parents about alternative forms of discipline, and wishes to point out that there is usually a connection between the social and legal acceptability of corporal punishment and the high level of child abuse which is of serious concern. **The Committee encourages the State party to review its policies and legislation in order to eliminate corporal punishment as a method of discipline and to implement fully the provisions of articles 19 and 39 of the Convention; it recommends that the**

State party increase its efforts to educate the public about the negative impact of corporal punishment on the development of the child and on the effort to prevent child abuse; finally, the Committee encourages the State party to seek international assistance and advice on successful examples of how to overcome traditional social attitudes regarding corporal punishment.

23. The Committee notes the commitment of the State party to the introduction of mandatory reporting for suspected cases of child abuse. While acknowledging the progress made, the Committee remains concerned that existing legislation is still not sufficient to provide strong protection against child abuse, including sexual abuse. The Sexual Offences Act, 1992 provides very harsh sentences for only one specific form of sexual abuse of children under 14. At the same time, other information seems to indicate that there are considerable difficulties in applying this legislation, in particular when a parent is reluctant to testify or allow the abused child to testify. In addition, the Committee is concerned that the Domestic Violence (Protection Orders) Act, 1992, although showing progress in removing police discretion in the referral to court of cases of domestic violence, still fails to ensure a sufficient level of protection for children in cases of domestic violence. The Committee is convinced that the need to ensure full protection from all forms of abuse in accordance with article 19 of the Convention requires legislative measures guaranteeing that child maltreatment will not be tolerated. **The Committee recommends that the State party reassess the impact of current measures and policies. It urges the State party to develop and implement systematically projects and programmes to address the need for: prevention of child abuse; protection from abuse, including procedures to protect children from possible further victimization by the legal system; and provision of rehabilitation services in accordance with article 39 of the Convention; and to this effect, to carry out awareness-raising campaigns and a careful review of existing legislation.**

6. Basic health and welfare

24. The Committee notes the commitment of the State party to increase available services to children with disabilities, and welcomes the efforts to identify all cases of children with disabilities. Nevertheless, the Committee remains concerned that the focus is on the provision of separate services rather than inclusion. **The Committee recommends that the State party implement its policies, together with a plan of action in regard to children with disabilities.**

25. The Committee welcomes the State party's efforts to reduce the rates of adolescent pregnancy. It welcomes the efforts to raise awareness about reproductive health and rights through initiatives such as the Family Life Development Programme. Despite these efforts, the Committee remains concerned about the high levels of adolescent pregnancy and abortion, about the rising incidence of HIV and AIDS, and about the effect this has on children infected or affected (in particular those orphaned) by the epidemic. **The Committee recommends that the State party give careful attention to the recommendations formulated by the Committee during its day of general discussion on "The rights of children living in a world with HIV/AIDS" (CRC/C/80, para. 243). It recommends that the State party increase its efforts to provide appropriate adolescent health services, consider the possibility of actively involving**

adolescents in the formulation of policies and treatment programmes in accordance with their evolving capacity, and make it possible for adolescents to have access to medical advice and treatment without parental consent in accordance with their age and maturity.

26. In spite of efforts to increase attention to early childhood education, the Committee remains concerned that the number of child-care centres is not enough to serve all children concerned. The Committee takes note of recent efforts to provide child care within existing schools with the assistance of trained volunteer parents and of the difficulties encountered in persuading private employers to provide child care at the workplace. While noting the success in transforming Queen Elizabeth Hospital into a baby-friendly institution, the Committee is also concerned about the lack of data on breastfeeding practices. **The Committee encourages the State party to continue its efforts to provide sufficient numbers of child-care services and to consider the possibility of setting up child-care facilities at the workplace for public employees, thus facilitating breastfeeding practices.**

7. Education, leisure and cultural activities

27. The Committee welcomes the commitment of the State party to education and the availability of free and compulsory education until the age of 16 for children who are citizens or permanent residents. It notes the effort to improve the quality of education through the proposals in the White Paper on Educational Reform. The Committee remains concerned about practical implementation of the educational reforms and of the policy to provide textbooks to all schoolchildren, and it is also concerned about the determination of the child's academic ability at the early age of 11. In addition, the Committee is concerned about the growing incidence of educational underachievement among boys. **The Committee suggests that some of the reforms in the training of teachers focusing on teachers' attitudes could be used also to increase attention to child rights. The Committee recommends that the State party increase its efforts in educational reform, including through careful study of the impact of secondary school entrance exams at the age of 11 and through evaluation of the impact of recent reform initiatives, if necessary by seeking international assistance from UNICEF, with a view to increasing the quality and relevance of education in accordance with articles 28 and 29 of the Convention.**

8. Special protection measures

28. Although a serious child labour problem does not seem to exist, the Committee remains concerned that the existing legislation is unclear about the exact types and amount of work that are acceptable at different ages, including in connection with children assisting their families with agricultural or domestic tasks. **The Committee recommends that the State party take advantage of current preparations to ratify ILO Convention No. 138 on Minimum Age for Admission to Employment to review and clarify its own legislation concerning work at different ages in order to maximize the protection of children against economi: exploitation in accordance with article 32 of the Convention.**

29. The Committee has a number of concerns regarding the administration of juvenile justice. In particular:

(a) The concern that special provisions for juvenile delinquents do not apply to children over 16 years of age, who are dealt with by adult criminal courts and are grouped with prisoners up to the age of 23. **The Committee recommends that the State party consider raising the existing age limit from 16 to 18;**

(b) The concern about the lack of flexibility in sentencing children under the Reformatory and Industrial Schools Act (with its minimum sentence of three years and its maximum sentence of five years) and the lengthy procedure for review of detention, which appears to have resulted in an informal practice of developing an alternative sentence of one year's detention. **The Committee recommends that the State party consider the introduction of a more flexible sentencing system and a simple but efficient and effective review of court decisions that involve holding a child in detention;**

(c) The concern that section 14 of the Reformatory and Industrial Schools Act makes it possible for children to be referred to the juvenile court for offences such as "talking back" or "wandering without proper guardianship". This means that acts which are not a crime if carried out by adults may, for minors, result in a criminal sentence, e.g. placement in an Industrial School. The Committee is concerned about such criminalization of behaviour problems of children. These kinds of problems should be dealt with through psycho-social services, treatment, etc., with the necessary family support. **The Committee recommends that the State party change its legislation in this regard to prevent, as far as possible, the criminalization of children's behavioural problems;**

(d) The concern about information suggesting that the right of a child accused of infringing the law to legal assistance can be, and often is waived by a parent or guardian. More careful implementation of the provisions of article 37 (d) and article 40.2 (b) (ii) of the Convention to legal or other appropriate assistance is necessary. **The Committee recommends that the State party consider reviewing its legislation to ensure that decisions regarding legal assistance for children in conflict with the law are taken impartially and with regard solely for the best interests of the child, and that the right of the child to such assistance should not be waived by others;**

(e) While welcoming the raising of the age of criminal responsibility, the Committee remains concerned that it has been raised only to 11 years. **The Committee encourages the State party to consider the need to raise the age of criminal responsibility further.**

30. The Committee is furthermore concerned about the conditions experienced by children deprived of their liberty, both in Industrial Schools and in separate facilities at the adult prison, and in particular about the lack of sufficient provision for education and rehabilitation services. **It recommends that the State party conduct in-depth research and gather information as to the situation and outcome for children held in the Industrial Schools and in prison, and urges the State party to ensure the full compatibility of the**

juvenile justice system with the Convention, especially articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

31. In the light of article 44, paragraph 6, of the Convention, the Committee appreciates the commitment of the State party to publicize the results of the dialogue. **The Committee recommends that such efforts include making widely available to the public the initial report and written replies submitted by the State party, along with the summary records of the relevant meetings and concluding observations adopted by the Committee. Such wide distribution should generate debate and awareness of the Convention and the state of its implementation, particularly within the Government, the relevant ministries, the Parliament and non-governmental organizations.**